

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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| MAGNACROSS LLC, Plaintiff, v. ACTIONTEC ELECTRONICS INC., Defendant. | CASE NO. 2:16-cv-506-JRG-RSP (LEAD CASE) (CONSOLIDATED) PATENT CASE |
| D-LINK SYSTEMS, INCORPORATED, Defendant. | CASE NO. 2:16-cv-512-JRG-RSP (CONSOLIDATED) |

**PLAINTIFF MAGNACROSS LLC'S OPPOSITION TO DEFENDANT
D-LINK SYSTEMS, INC.'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT UNDER FED.R.CIV.P. 12(b)(6)**

Plaintiff Magnacross LLC (“Magnacross”) hereby opposes D-Link Systems, Inc.’s (“Defendant”) Motion to Dismiss Plaintiff’s Complaint Under Fed.R.Civ.P. 12(b)(6) (Dkt. No. 24) (“Defendant’s Motion”). Defendant’s motion is moot in view of Magnacross’s Amended Complaint filed on August 9, 2016. (Dkt. No. 47). Counsel for Magnacross held a conference call with counsel for Defendant and discussed whether a response to Defendant’s motion was necessary in view of the Amended Complaint. Defendant agreed that no response was necessary and to the extent Defendant disputed the sufficiency of the Amended Complaint, Defendant would file a separate motion.

Although data sensors are not required by claim 12, in order to address the dispute with Defendant, Magnacross filed an amended complaint identifying data sensors and including references to Defendant’s website and documents that describe using the accused instrumentality with data sensors. (Dkt. No. 47 at ¶16). Magnacross also amended the complaint to assert, for the first time, indirect infringement. (Dkt. No. 47 at ¶¶17-19). Defendant’s motion is also effectively moot since Magnacross already served its PR 3-1 claim chart explaining where each

claim element is found in each Accused Instrumentality. The PR 3-1 claim chart “provides far more detail than Rule 8’s pleading requirements,” which “render[s] [Defendant’s] motion superfluous for all practical purposes.” *Parallel Networks, LLC v. Abercrombie & Fitch, et. al.*, C.A. No. 6:10-cv-111-LED at Dkt. No. 336 at 1 (E.D. Tex. March 14, 2011).

Magnacross therefore respectfully request that the Court deny Defendant’s motion as moot. In the event that the Court finds that Defendant’s motion is not moot, Magnacross respectfully requests that the Court grant Magnacross leave to file a supplemental response to address the substantive arguments in Defendant’s motion.

CONCLUSION

For the foregoing reasons, Defendant’s motion should be denied.

Dated: August 26, 2016

Respectfully submitted,

/s/ David R. Bennett

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**ATTORNEY FOR PLAINTIFF
MAGNACROSS LLC**

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served on August 26, 2016, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ David R. Bennett _____

David R. Bennett